

**BEFORE THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO. 2022-52-E

Dominion Energy South Carolina,)	<u>UNITED STATES DEPARTMENT</u>
Incorporated's 2022 Annual Update on)	<u>OF DEFENSE AND ALL OTHER</u>
Demand Side Management Programs and)	<u>FEDERAL EXECUTIVE</u>
Petition to Updated Rider)	<u>AGENCIES' MOTION TO FILE</u>
)	<u>COMMENTS OUT OF TIME</u>

The United States Department of Defense and all other Federal Executive Agencies (“DoD/FEA”), by and through its legal counsel, hereby requests that it be granted leave to file comments out of time for good cause shown.

Dominion Energy South Carolina, Inc. (“DESC”) filed its 2022 Annual Update on Demand Side Management Programs and Petition to Updated Rider on January 31, 2022. On February 9, 2022, the South Carolina Public Service Commission (“Commission”) issued its Revised Notice of Filing and set an intervention deadline of April 11, 2022 for those seeking to become an Intervenor in the case, who would have rights to “testify, cross-examine witnesses, and appeal the Commission’s final decision.” This was set out as “Option 2” in the Revised Notice of Filing. Additionally, the Revised Notice of Filing gave another option to participate in the case by filing public comments (set out as “Option 1”). The Revised Notice of Filing did not establish a deadline to file comments. DoD/FEA filed its Petition to Intervene on March 7, 2022 and no party objected to the Petition. The Commission granted DoD/FEA’s Petition to Intervene on March 15, 2022. After DoD/FEA filed its Petition to Intervene, Walmart filed a Petition to Intervene on March 15, 2022 and South Carolina Coastal Conservation League and Southern Alliance for Clean

Energy (“SCCCL/SACE”) filed a Petition to Intervene on March 28, 2022. No party objected to either of those petitions.

On April 1, 2022, the Office of Regulatory Staff filed its Report on Dominion Energy South Carolina, Incorporated's Annual Update on Demand Side Management Programs and Petition to Update Rider; Walmart filed a Letter in Lieu of Comments; and SCCCL/SACE filed a Letter and Comments on Dominion Energy South Carolina, Incorporated's Annual Update on Demand Side Management Programs and Petition to Update Rider.

On April 6, 2022, DoD/FEA emailed the Commission's Chief Hearing Officer and copied the parties to request clarification as to whether the Commission would be setting prefile testimony deadlines in this docket because DoD/FEA wanted the opportunity to file testimony or, in the alternative, comments. The Chief Hearing Officer responded that the Commission likely would not set prefile testimony deadlines, but that Intervenors could file comments. DESC responded that the deadline to file Comments was April 1, pursuant to Commission Order No. 2013-826. The Chief Hearing Officer confirmed that the deadline to file written comments was April 1, 2022.

Commission Order No. 2013-826 reads in relevant part, “parties wishing to intervene would be required to file petitions to intervene by February 28 of each year, and ORS and other intervenors would be required to file comments on the Company's Application, if any, no later than April 1 of each year.” DoD/FEA was not aware of Order No. 2013-826 until after the April 1 deadline. Even if DoD/FEA had been aware of the Order, there is confusion as to whether this nine-year-old Order is still in effect because the Order also establishes an intervention deadline of February 28th each year. In this case,

the Commission set the intervention deadline for April 11th and not February 28th as set forth in Order No. 2013-826. Neither DESC nor any other party brought the discrepancy with the intervention deadline to the attention of the Commission. The three parties that intervened in this matter all filed petitions to intervene after February 28th (DoD/FEA filed March 7, 2022, Walmart filed March 15, 2022, and SCCCL/SACE filed March 28, 2022). None of those Petitions included a petition to file out of time for not meeting a February 28th intervention deadline. Again, these petitions were timely in accordance with the April 11, 2022 deadline for intervention as set forth in the Revised Notice of Filing.

A review of DESC's Annual Updates between 2019-2021 indicates that the Commission's recent practice has not followed the deadlines set forth in Order 2013-826. In Docket 2021-34-E, "Dominion Energy South Carolina, Inc.'s Annual Update on Demand Side Management Programs and Petition to Update Rider," the Commission set an intervention deadline of March 8, 2021 instead of February 28, 2021.¹ Additionally, the Commission set a March 8, 2021 deadline for an intervenor "who wishe[d] to testify and present evidence at the hearing, if scheduled" to provide written notification to the Commission, the Office of Regulatory Staff, and DESC.

In Docket, 2020-41-E, "Dominion Energy South Carolina, Inc.'s 2020 Annual Update on Demand Side Management Programs and Petition for an Update to Rate Rider," the Commission set an intervention deadline of March 12, 2020, instead of February 28, 2020.² The Commission also set a March 12, 2020 deadline for an intervenor "who wishes[d] to testify and present evidence at the hearing, if scheduled" to provide written notification to the Commission, the Office of Regulatory Staff, and DESC. On the

¹ Notice of Filing issued in Docket 2021-34-E (February 8, 2021)

² Notice of Filing Issued in Docket 2020-41-E (February 5, 2020)

intervention deadline of March 12, 2020, the Commission issued a Notice of Hearing and Prefile Testimony deadlines, which set a deadline of April 2, 2020 for the Applicant's Direct Testimony, a deadline of April 16, 2020 for Other Parties of Record Direct Testimony, a deadline of April 23, 2020 for Applicant's Rebuttal Testimony, and a deadline of April 28, 2020 for Other Parties of Record Surrebuttal Testimony. On March 12, 2020, DESC filed a letter with the Commission, asking it to withdraw the Notice of Hearing and Prefile Testimony Deadlines and "notice a hearing only if requested by a party."

In Docket 2019-57-E, South Carolina Electric & Gas Company's 2019 Annual Update on Demand Side Management Programs and Petition for an Update to Rate Rider, the Notice of Filing set an intervention deadline for March 12, 2019, instead of February 28, 2019 and a comment deadline of April 2, 2019, instead of April 1, 2019. In 2019, April 1st fell on a Monday, so the comment deadline of April 2nd was not the result of it being the first business day after a weekend deadline.

Notably, neither the Company nor any other party brought to the Commission's attention that the deadlines set forth by the Commission in 2019-2021 were not consistent with Order 2013-826.

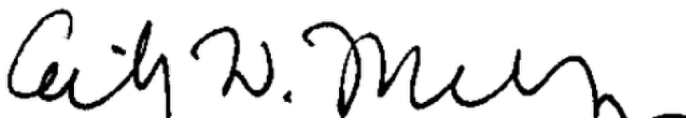
DoD/FEA respects deadlines set by the Commission and intends to be mindful of them. In light of this case's Revised Notice of Hearing and the Commission's deadlines set since 2019, a reasonable person could conclude that the deadlines set forth in Order 2013-826 are no longer effective, and as such, DoD/FEA has shown good cause for not filing comments by the April 1, 2022 deadline. No party will be prejudiced if the

Commission grants DoD/FEA's motion with DoD/FEA because this Motion is being filed before the intervention deadline.

If the Commission grants DoD/FEA's Motion to File Comments Out of Time, in order to avoid further delay, DoD/FEA is filing contemporaneous with this Motion its Comments.

WHEREFORE, the United States Department of Defense and all other Federal Executive Agencies respectfully requests that the Commission grant its Motion to File Comments Out of Time.

Respectfully submitted,



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